IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 797 OF 2006
connected with
COMPANY APPLICATION NO. 1092 OF 2006

Indian Resort Hotels Limited. ... Petitioner.

WITH

COMPANY PETITION NO. 798 OF 2006
connected with
COMPANY APPLICATION NO. 1093 OF 2006

Gateway Hotels and Gateway Resorts Limited. ... Petitioner.

WITH

COMPANY PETITION NO. 799 OF 2006
connected with
COMPANY APPLICATION NO. 1094 OF 2006

Taj Lands End Limited. ... Petitioner.

WITH
COMPANY PETITION NO. 800 OF 2006
connected with
COMPANY APPLICATION NO. 1095 OF 2006

The Indian Hotels Company Limited. ... Petitioner.

In the matter of Arrangement embodied in the Scheme of Amalgamation of Indian Resort Hotels Limited, Gateway Hotels and Gateway Resorts Limited, Kuteeram Resorts Private Limited, Asia Pacific Hotels Limited and Taj Lands End Limited with The Indian Hotels Company Limited.

Virag Tulzapurkar, senior counsel with Tapan Deshpande i/b. M/s.Amarchand & Mangaldas & Suresh A. Shroff & Co. for the petitioners.

C.J.Roy with Parag Vyas i/b. G.C.Mishra
for the Regional Director.

Mrs.K.V.Gautam, Dy. Official Liquidator present.

V.V.Khemka for the creditor (in
C.P.Nos.799/2006 and 800/2006.

V.V.Shinde i/b. M/s.Shukla & Associates
for the B.S.N.L.

CORAM: V.C.DAGA, J.

DATED: 9th March 2007.

P.C.:

. The Company Petition Nos.797/2006; 798/2006 and 799/2006 are filed by the transferor companies, namely, Indian Resort Hotels Limited, Gateway Hotels and Gateway Resorts Limited and Taj Lands End Limited respectively (jointly referred as "transferor companies" for short), whereas Company Petition No.800/2006 is filed by the Indian Hotels Company Limited ("transferee company" for short).

2. By the above petitions the petitioner-companies have sought sanction to the arrangement embodied in the Scheme of Amalgamation of the transferor companies with the transferee company. M/s.Kuteeram Resorts Private Limited, one of the transferor companies, has its registered office at Bangalore, State of Karnataka falling within the jurisdiction of the Karnataka High Court, whereas registered office of M/s.Asia Pacific Hotels Limited

is at Salcette, Goa falling with the jurisdiction of the Panaji Bench of this Court. Rest of the transferor companies as well as transferee company have their registered offices at Mumbai. Hence they have invoked jurisdiction of this Court under sections 391 to 394 of the Companies Act, 1956.

3. On being noticed, the Regional Director, Western Region, Western Region, Ministry of Company Affairs has appeared and filed their affidavit giving no-objection to the subject scheme of amalgamation, the copy of which is placed on record. The Official Liquidator has also filed report and consented for acceptance of subject scheme of amalgamation.

4. Pursuant to the orders dated 22nd December, 2006, notices of hearing of these petitions came to be published in Indian Express and Loksatta newspapers.

5. In response to the notices issued in Company Petition Nos.799/2006 and 800/2006, one Mr.Vishal Kedia, Director of Ramniranjan Kedia Tours & Travels Pvt.Ltd., Creditor has appeared and filed an affidavit contending that by virtue of acceptance of the subject scheme of amalgamation the suit filed by his establishments against the Indian Hotels Company Limited, the transferee company being Suit

No.2499/2006 and the arbitration proceedings which are going on against Taj Lands End Limited will be prejudicially affected and that the claimant in that suit as well as arbitration proceedings shall not be in a position to recover their dues from the said companies who are involved in the subject scheme of amalgamation.

6. The above objection raised is strongly opposed by the learned senior counsel appearing for the petitioner- companies involved in the scheme of amalgamation.

7. Having heard parties on the objections raised, considering the sweep of clauses 7.1(d) and 8 of the Scheme, I do not see any substance in the objection raised by Mr.Kedia as the said clause protects the interest of the creditors, if any.

8. Apart from the above, Mr.Tulzapurkar, learned senior counsel appearing for the petitioners has made a statement that no fresh defence arising from acceptance of the Scheme prejudicial to the interest of the creditors or who claim to be the creditors shall be raised. Both proceedings would be contested on their own merits. In this view of the matter, the objection raised by Mr.Kedia, claiming to be the

creditor representing M/s.Ramniranjan Kedia Tours & Travels Pvt.Ltd. is liable to be overruled.

9. It is also brought on record that the net worth of the Company is not going to be affected, if the scheme of amalgamation is accepted. It appears from the documents on record that the financial condition of the Company is absolutely strong, which can also be seen from the certificate issued by the Chartered Account produced on record. The Board of Directors of the transferor companies as well as transferee company have approved the Arrangement of Scheme of Amalgamation vide resolutions dated 12th October, 2006.

10. In so far as M/s.Indian Resort Hotels Limited; M/s.Gateway Hotels and Gateway Resorts Limited and M/s.Indian Hotels Company Limited are concerned, meetings of their equity shareholders were held and the scheme of amalgamation was unanimously accepted by them; whereas by order dated 10th November, 2006 passed by the Company Judge, the necessity of convening and holding meetings of their unsecured creditors was dispensed with.

11. So far as Taj Lands End Limited is concerned,

the Company Judge vide order dated 10th November, 2006 has dispensed with the necessity of convening and holding of meeting of equity shareholders in view of the consent letters filed by them. Similarly, necessity of convening and holding meeting of the unsecured creditors, in view of the undertaking given by petitioner to give individual notices to the unsecured creditors, was dispensed with. Individual notices are given to the unsecured creditors. The affidavit in support thereof is filed on record.

12. At this stage, learned counsel appearing for B.S.N.L. sought time to file objections to the Scheme. Even on the last date time was sought for the same reason which was granted by this Court. In spite of grant of time no written objections are filed. In the circumstances, prayer for time to file objections is rejected.

13. In the above view of the matter, I am satisfied that the provisions of the Companies Act, 1956 have been complied with by the petitioners. The arrangement embodied in the Scheme of Amalgamation is, thus, deserves to be accepted. The Company Petition Nos.797/2006, 798/2006 and 799/2006 are, thus, made absolute in terms of prayer clauses (a) to (g), whereas Company Petition No.800/2006 is made absolute

in terms of prayer clauses (a) to (f), subject to the orders of the Panaji Bench of this Court and Karnataka High Court and also subject to the provision of section 47 of the Maharashtra Value Added Tax Act, 2002.

14. Mr.Tulzapurkar undertakes to comply with the statutory requirements as indicated by the Regional Director in their affidavit so as to file necessary forms with the Registrar of Companies within a reasonable period.

15. The petitioners would pay costs of Rs.2,500/- each to the Regional Director and the Official Liquidator.

16. All the concerned including Registrar of Companies to act on the ordinary copy of this order and scheme annexed to the petition duly authenticated by the Company Registrar of this Court. Filing of drawn up order is dispensed with.

(V.C.DAGA, J.)